

REMARKS

By this paper, Applicant has amended claim 1. Applicant has not added or cancelled any claims. The independent claim remains claim 1. This amendment contains no new matter. Entry of this amendment is respectfully requested.

Claim Rejections – 35 USC § 103***Examiner's Section 2. Claims 1-2, 9-10 and 17***

The Examiner has rejected claims 1-2, 9-10 and 17 under 35 USC §103 as unpatentable over Minutoli et al., U.S. Patent No. 3,782,061 ("Minutoli") in view of Commins 459414913 C5 ("Commins") and Siemons, U.S. Patent No. 5,839,981 ("Siemons").

Applicant respectfully disagrees with the appropriateness of combining Minutoli with Commins or Siemons. Applicants believe the Examiner has failed to make a prima facie case of obviousness, given the teachings of Minutoli. Minutoli, in fact, teaches away from making the combination suggested by the Examiner. Furthermore, neither Commins or Minutoli suggest modifying Minutoli. As such, the references do not suggest the combination.

First, Minutoli teaches an invention that "allows a multistoried building to be uniformly prestressed throughout in a simple manner, while avoiding the delay occasioned by the need to prestress the reinforcing rods corresponding to a single story of a building." Minutoli, column 1, line 18. Minutoli is not concerned with the compression states of elements 42 and 48 and 50, the sleeve and bushings. Minutoli is concerned with the compression states of the panels 12 and 14. As such, coupler 56 at bushing 48 can and is meant to lift off bushing 48 (see Minutoli, column 4, line 14) to provide uniform prestressing to the concrete and to accomplishing pre-stressing in a single step (see Minutoli, column 1, line 27). Since Minutoli is concerned with providing uniform prestressing along the length of rods 52 and 59, and not with the compression state of the bushings 48 and 50 and sleeve 42, the members that the Examiner describes as making up the fastening member of Minutoli (plate 26, nut 60 and "the part next to part 59 figure 2) can compress not only bushing 48 but also panel 16 and sleeve 42. Because the fastening member of Minutoli rests not only the bushing 48, but panel 16 and sleeve 42, there can be situations when the resisting member of Minutoli places no compression on bushing 48. Thus, Minutoli teaches away from bushing 48 being under constant compressive forces from the fastening members of Minutoli. Applicant has also amended claims 21 and 22 to make the distinction between Minutoli and the present invention more clear. Applicant has amended both claims to say that the "fastening member is only supported by said expansion device and said elongated tension member." In comparison, the fastening member of Minutoli

is supported by sleeve 42 as well as bushing 48 and panel 16. In the present invention, the positional relationship of the fastening member to the expansion device is determined solely by the position of the bearing member and the elongated tension member, and as such it can perform its function of maintaining the compression forces on the expansion device, and in turn maintain the compression forces on the resisting member.

Applicant by these arguments and this amendment, feels it has overcome the rejection raised by the Examiner of claim 1, and respectfully requests that the Examiner allow the claim. As claims 2, 9-10 and 17 depend from claim 1, Applicant feels they too are now in condition for allowance.

Furthermore, with respect to claim 10, which calls for the building to have a structural frame at least a portion of which is made from wood, Applicant notes that wood and concrete are very different in an important aspect with respect to the invention. The concrete panels 12, 14 and 16 of Minutoli that the string of reinforcing rods compress are relatively uncompressible members, in comparison to wood framed panels that are expected to shrink (see page 1, line 22 of the present specification). Thus, a structural frame that is at least partially made from wood will have need for this invention, as compared to a building made solely from concrete panels.

Examiner's Section 3. Claim 4

The Examiner has rejected claim 4 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 1 and further in view of Greenwood, 459417970 page 318, figure 19 ("Greenwood").

Claim 4 depends from claim 2, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 4 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 4 is in condition for allowance.

Examiner's Section 4. Claim 5

The Examiner has rejected claim 5 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons.

Claim 5 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 5 as it incorporates all of the limitations of claim 1 and Applicant raises them here without

repeating them for the sake of brevity. As such, Applicant believes claim 5 is in condition for allowance.

Furthermore, the Examiner says that element 28 of Minutoli corresponds to the locking clip of claim 5, and could be modified to meet all of the limitations of claim 5. Applicant respectfully disagrees. The Examiner has not made a prima facie case of obviousness, because the Examiner has incorrectly described the relationship of the parts. Element 28 of Minutoli is attached to plate 26 which the Examiner characterizes as being part of the fastening member. Element 28 would prevent plate 26 from rotating, but it would not prevent bushings 48 and 50 from rotating and moving out of the sleeve 42.

Applicant also fails to see in Minutoli any motivation to make elements 28 threadably releasable from plate 26, since they will be embedded in concrete. Since Minutoli shows plate 26 having two elements 28, it would not be possible to threadably release the plate 26 from both of them after they were embedded in the concrete.

Examiner's Section 5. Claim 6

The Examiner has rejected claim 6 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 1 and further in view of Fuehrer, U.S. Patent No. 3,1118,681 ("Fuehrer").

Claim 6 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 6 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 6 is in condition for allowance.

Examiner's Section 6. Claim 8

The Examiner has rejected claim 8 under 35 USC § 103(a) as unpatentable over Minutoli in view of Commins and Siemons as applied to claim 1 and further in view of Greenwood.

Claim 8 depends from claim 1, and Applicant by the arguments and the amendment made above, feels it has overcome the rejection raised by the Examiner of claim 1. Those arguments and amendment apply equally to claim 8 as it incorporates all of the limitations of claim 1 and Applicant raises them here without repeating them for the sake of brevity. As such, Applicant believes claim 8 is in condition for allowance.

Allowable Subject Matter

Applicant would like to thank the examiner for indicating that claims 3, 11-16 and 18-20 would be allowable, if written in independent form.

Applicant has not amended these claims at this time. Applicant hopes the Examiner will now consider these claims allowable based on the amendment and arguments raised with respect to claim 1 from which these claims depend.

Double Patenting

The Examiner has provisionally rejected claims 1-6, 8-20 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 20-39 of copending Application No. 10/626,787. Applicant submits herewith a terminal disclaimer in addition to the required fee.

Conclusion


Applicant believes the claims are currently in condition for allowance and respectfully requests the same.

Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Respectfully submitted,

Date: February 15, 2007

Reg. No.: 41,694
Tel. No.: 510-832-4111
Fax No.: 510-832-4115
Customer No.: 498



Charles R. Cypher
Law Offices of James R. Cypher
405 14th Street
Suite 1607
Oakland, CA 94612